

INTERNATIONAL MARKET INSIGHT

SHORT GUIDE ON EU-FUNDED PROGRAMS FOR THE EU ACCESSION COUNTRIES

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Introduction

For the period 2000-2006, the European Union has created three types of grants for the financing of economic development projects in the accession countries of Central and Eastern Europe. PHARE, ISPA and SAPPARD are the three main EU programs offering overall pre-accession assistance amounting to 2 billion Euro per year. A description of the three programs will follow general advice on the conditions of eligibility of US firms in these programs. Those three programs are generally grouped together as the EU's pre-accession aid package, and although they cover different economic sectors and are administered by different European Commission services, they have common procurement guidelines. Those three programs should only be applicable though until 2004, as the accession of central and eastern European countries will broaden opportunities for US-based companies.

Short background

An "Accession Partnership" agreement has been signed between each candidate country and the European Commission. Each Accession Partnership lists each country's areas where efforts are needed to align with European Union legal requirements. Each candidate country has drawn up its National Program for the Adoption of the Acquis (NPAA), which contains a detailed timetable for achieving the priorities and objectives set out in the Accession Partnership. Both were instrumental in developing all three types of pre-accession financial assistance.

The newly created website on EU enlargement offers an interesting page on EU financial assistance:

http://europa.eu.int/comm/enlargement/financial_assistance.htm

Beneficiaries

PHARE, ISPA and SAPARD concern the ten pre-accession countries that should enter the European Union in 2004: Bulgaria, Romania, Czech Republic, Slovakia, Poland, Hungary, Latvia, Estonia, Lithuania and Slovenia. The European Commission is still officially undecided about which country should form part of the so-called "first wave" of accession countries, but it is generally admitted that Bulgaria and Romania are scheduled for a later accession than the other eight, probably around 2007, and that Poland will be by far the largest recipient of EU aid in all categories. Participants to these programs, whether as project developer or as partner, must follow the rule of nationality; the services and supplies contracted out by the sub-contractors of the project developers must follow the rule of origin.

The Rule of Nationality and the Rule of Origin:

The Rule of Nationality says that contracts are open to all legal persons of EU member states and the candidate countries. Calls for proposals require applicants to state the country of which they are nationals by presenting the documents required under that law. Applicants must be able to demonstrate "effective and continuous links with that

country's economy, in order to avoid awarding contracts to organizations whose nationalities are ineligible but which have set up letter box organizations in an eligible country to circumvent the rules on nationality" says the EC Guide on contracting procedures. That means applicants must have an ongoing business in the EU or candidate country, and pay local taxes.

All goods supplied under a PHARE or ISPA-funded project must follow the Rule of Origin, which says that "all supplies and equipment purchased under a grant contract must originate in the EU or in an eligible country, as defined in the rule of nationality, i.e. the countries and territories covered by the regulation", i.e. the candidate countries. Also, some goods manufactured in one candidate country may be used to respond to a tender emanating from another candidate country, without having to undergo transformations inside the EU territory. In addition, companies established in Turkey, Cyprus and Malta may bid on any PHARE or ISPA projects.

Some exceptions are possible upon examination by the European Commission "on a case by case basis" for derogation to both the rule of nationality and the rule of origin. The derogation could concern "cases where projects are co-financed by International Financial Institutions that have a broader procurement policy". This would for example apply to projects that are sometimes co-financed with the European Investment Bank, which requires open tendering procedures for the sections of the projects they cover.

Advice to U.S. companies with no subsidiary abroad.

Generally, those three pre-accession grant programs are tied-aid programs, meaning that US firms, who do not have a subsidiary (registered, with a substantial turnover, paying taxes, employing local staff, and "legally" established) within any of the 15 EU member countries, or in one of the 10 accession countries or in one of the three other candidates (Malta, Cyprus, Turkey), will not be able to participate in projects financed by Phare, Ispa and Sapard, as they are US-based only. Those restrictions apply only to pre-accession programs. On the date of the signature of the Accession treaties with each accession country, which should occur at the beginning of 2004, the Ispa, Phare and Sapard programs will be terminated, and the future grant programs that will be applicable to them will be the same as other EU members now enjoy, namely the Structural Funds and the Cohesion Fund. These funds finance social and economic development-type projects in a very wide range of industrial sectors, including large civil infrastructure. These projects are tendered out according to EU public procurement rules, and the financial regulations governing these funds do not have restrictions on the nationality of participants, either concerning the formation of consortium and partnering structures, or concerning subcontractors. The money that has been allocated to pre-accession programs during this financing period (2000-2006) will be reallocated to the Structural and Cohesion Funds and substantially increased. At that moment, the European Commission will lose its control on the life cycle of projects, and entrust it to the contracting authorities, namely the local and regional authorities who will be managing those funds. Therefore the best advice to US-based companies who wish to participate in EU-funded projects, but which have no subsidiary in the EU or in the countries recipient of the aid (mentioned above), is to wait until 2004, when the accession takes place. There are examples of U.S. firms participating as partners in a consortium or being beneficiaries of grants from the Structural Funds or the Cohesion Fund to realize their project.

Advice to U.S. companies with subsidiaries abroad

Companies who have a subsidiary in any of the EU member states or in any of the beneficiary countries mentioned here above are considered eligible to participate in those 3 grant programs, either as main project developer or as subcontractor of supplies, services or works, and will be treated equally as other European competitors. First, for companies looking for tenders, the EuropeAid website has a database of tenders related

to these programs (see next paragraph). A second approach, for those established in the beneficiary countries, is to get in contact with the regional authorities and get information from the Contracting Authorities and the ISPA National Coordinators. Lastly, the EC delegations in those countries are the best knowledgeable about ongoing and future grant projects. The European Commission has just finalized recruitment of 40 local environmental and transport experts for its ten delegations there, who will be counseling EU authorities on projects that need to be undertaken: these officials should be valuable points of contact. The EuropeAid Agency established in Brussels, which manages all external aid programs in the European Commission, also has experts who analyze and assess the projects.

For the list of National Ispa coordinators and the EC delegations in accession countries, go to:

http://www.europa.eu.int/comm/regional_policy/funds/ispa/contacts_en.htm#1

It is strongly advisable that U.S. companies start making contact with the relevant government officials in accession countries, in view of the upcoming transfer of responsibility (concerning project assessment) from European Commission officials to them around 2004. It is easier to work under structural funds regulations, as the above-mentioned Rule of Nationality does not apply, but the process of these funds is long and time between project ideas and realization of the works may well extend into two-year patterns. Companies are then advised to contact the US Commercial Service in those countries, please consult the list on:

<http://www.buyusa.gov/centraleurope/en/page2.html>

EU Procurement Procedures

Although those 3 programs share common procurement procedures, they are managed by various European Commission services, a fact that accounts for scattered information across the Europa website: PHARE is managed by the enlargement directorate-general, ISPA by the regional policies directorate-general and SAPARD by the agriculture directorate-general. The EC is engaged in a process of gradually decentralizing the management of these programs away from the European Commission and toward the EU delegation offices in each accession country.

For the Practical Guide to Phare, Ispa and Sapard contract procedures, go to:

http://europa.eu.int/comm/europeaid/tender/gestion/pg/pg_phare_en.pdf

Related Tenders

For Phare and Ispa projects, the European Commission must give its approval before committing the grant, while Sapard projects do not need EC approval. For Phare and Ispa projects, the European Commission must approve the decisions taken by the Contracting Authority concerning the procurement as well as the rules governing the award of contracts. But gradually, the European Commission is decentralizing the management of those programs to the EC delegation offices in the accession countries. All of these three programs will generate tenders that are posted on the website of the EuropeAid Cooperation Office, which offers a simple-to-use database of all EU-financed external aid programs, as well as the related procurement guides.

For PHARE, ISPA and SAPARD tenders database, go to:

<http://europa.eu.int/comm/europeaid/cgi/frame12.pl>

1. PHARE:

PHARE holds a central role in the pre-accession strategy. It is now the EU's principal financial instrument for supporting the efforts by the applicant countries to prepare for membership, notably through economic restructuring and strengthening of democracy.

PHARE offers a large variety of program types: a series of multi-annual programs, other regional programs (common to a number of accession countries and regions) as well as programs specific for each country called National Programs. Roughly, PHARE funds will be shared between two priorities: Institution Building (30%) and Acquis-related Investment (70%).

Institution building projects:

This means the process of helping the accession countries to develop the structures, strategies, human resources and management skills needed to build up a solid administrative capacity and a public service culture. The main tool used is the twinning of administrations and agencies. After the EC has identified lacunae in a country's administration, it sends over civil servants and expert missions on concrete projects to reform a public administration. Usually, US companies are not eligible for twinning projects. A typical range of eligible bodies contains non-profit-making organizations, officially registered non-governmental organizations, foundations, associations, charities, regional authorities, trade unions, chambers of commerce, universities, research and development entities from the EU or the accession countries.

Acquis-related Investment

Two major types of activities are at stake:

First, the co-financing of investment in the country's regulatory framework to strengthen the regulatory infrastructure needed: investment in all the equipment needed to operate in the internal market, like putting up a food safety structure, making frontiers secure, procuring testing and measuring equipment, etc.

Second, the actual co-financing of large infrastructure projects, similar to those operated in Europe through Structural Funds grants. This category represents about a third of each Phare National program, and the one category that is most open to US firms' participation. Applicant countries may also use up to 10% of their national Phare allocations to fund their participation in other EU-funded programs in sectors such as education, research, environment, etc.

The website of the PHARE program offers a useful database of all Phare projects, searchable per sector and country:

<http://www.europa.eu.int/phare-cgi/plsql/prog.search>

Four types of programs have been created:

1. National Programs: large projects are funded here (usually above 2 million Euro) . The funding is allocated through calls for tender on the EuropeAid website (see above). Implementation of these programs is decentralized, relying heavily on the Implementation Agencies of the applicant countries to carry out most of the management.
2. Cross-border Programs: these programs promote cross-border co-operation between European and applicant countries and regions. These programs represent about 17 per cent of the Phare budget. Average project size is also about 2 million euro, and the management is also secured by the Implementation Agencies in the applicant countries.
3. Multi-beneficiary programs: these grants are reserved to non-profit-making institutions, and are designed to finance small projects common to more than one country. It finances technical assistance and advisory services for setting up projects and reconversion programs.
4. Multi-country programs: this refers to the twinning practice of exchanging information and civil servants between administrations of cities of EU member states

and candidate countries as well as top projects aimed at the reform of major public administrations.

More can be found on:

<http://www.europa.eu.int/comm/enlargement/pas/phare/programmes/multi-bene/2002/>

Budget

The annual budget for the PHARE program offers 1.65 billion Euro for 2000 to 2006, or totals more than 11 billion for the whole period. Between 1995-99, the Phare budget was 6.6 billion Euro. In all, Phare delivered a total of 11 Billion euro in assistance to the applicant countries over the ten years from 1989 to 1999. The channeling of all Phare funds is done through one single body (the National Fund) in the countries; the head of the National Fund (called the National Authorizing Officer, NAO) bears full responsibility towards the European Commission for the use of the funds.

2. ISPA : INSTRUMENT FOR STRUCTURAL POLICIES FOR PRE-ACCESSION

Environment and Transportation

ISPA is the term used for designating EU financial assistance to the 10 pre-accession countries in two fields only, environment and transport infrastructure, during the 2000-2006 period. The total amount of ISPA grants will be EUR 7 BN for 2000-2006, with 50% for transport and 50% for environment projects. Precisely it amounts to 1.04 BN Euro per year.

To find out where most of the EU financial aid will be spent, check out the following indicative allocation by country: (total in million Euro for 2000-2006)

Bulgaria	83.2 – 124.8	Latvia	36.4 – 57.2
Czech Republic	57.2 – 92.56	Poland	312 – 384.8
Estonia	20.8 – 36.4	Romania	208 – 270.4
Hungary	72.8 – 104	Slovakia	10.4 – 20.8
Lithuania	41.6 – 62.4	Slovenia	36.4 – 57.2

Projects:

The projects that will receive these grants have to fit into each country broad development plans that were negotiated between each accession country and the European Commission. A number of projects are then submitted each year. Environment projects center around two axis: water treatment (clean water treatment, water purification systems, wastewater treatment plants) and waste management (landfills processes); air pollution controls). Transportation projects will be split between railway modernization and road repair and construction, with one airport project in Sofia.

For transport infrastructure projects, The Trans-European Transport Network guidelines offers descriptions of projects of "common interest", which shall be used by the Commission to select eligible projects. The aim is to facilitate priority projects as laid out in the Transport Infrastructure Needs Assessment (the so-called TINA) papers initiated by the European institutions. ISPA assistance must contribute to the objectives laid down in the Accession Partnerships for each country, and to corresponding national programs for the improvement of the environment and the transport infrastructure networks; environmental projects must help the beneficiary country to comply with EU environmental laws.

Projects may also cover preliminary, feasibility and technical support studies needed for carrying out a project. Those may not exceed 2% of the total allocation. The minimum total cost of a project should be 5 million Euro. Typically, ISPA will support large-scale infrastructure projects.

How are grants disbursed?

It is the National ISPA Coordinator designated in each candidate country, and NOT a company or consortium, which submits applications for assistance to the Commission. The grant is then transferred from the European Commission to that specific authority. ISPA annual appropriations are authorized by the Commission on the basis of the criteria of population, per capita GDP in purchasing power parities and surface area. ISPA assistance may take the form of non-repayable direct assistance (usually), repayable assistance or any other form of assistance. Each grant agreement will include a Financing Memorandum (usually signed by the Ministry of Finance) containing details of the various sources of finance of the project. Often, ISPA grants are complemented with a loan from the European Investment Bank.

The ISPA grant rate may be up to 75% of total public expenditure, and this rate may be raised in exceptional cases to 85% (but not more than 90% of total expenditure). This rate may also be reduced to take into account: the availability of co-financing; the project's capacity to generate revenues (infrastructure projects involving fees borne by users; productive investments in the environment sector) and an appropriate application of the polluter-pays principle.

Applications

Applications that must be fulfilled by national ISPA coordinators give us a good indication of the factors that are taken into account by the European Commission when assessing a request for an ISPA grant. Applications shall contain, beside the usual name of the implementation body, description of the project, cost and timetable for implementation, but also cost-benefit analysis including the direct and indirect effects on employment (i.e. the higher the number of local jobs created, the higher the grant); assessment of environmental impact (no grant will be disbursed if the environmental impact assessment turns negative); compliance with EU competition law and public contract rules (the procedure to be followed for the awards of work, supply or service contracts have to be specified in a financing memorandum), financing plan, economic viability of the project and finally the compatibility of the project with EU policies. More precisely, for environmental projects: priority of the project within the national environmental strategy as laid down in the *acquis communautaire*; for transport projects: information on the place of the project within the national transport development strategy and coherence with guidelines for the Trans-European networks and the pan-European transport policy.

It is important that US firms respect these requirements concerning the proof that their project fits into EU policies if they want to be eligible for EU grants; scores of Brussels-based consulting firms are in close contacts with EU officials and can help US companies shape their proposals to EU requirements. For a list of such consultants, please contact the US Mission to the EU on brussels.ec.officebox@mail.doc.gov:

Links:

The website of the EC regional policy directorate has a page containing information on the ISPA state of play: how to apply for the grant, the contracting procedures, examples of success stories and a list of the ongoing projects, per country:

http://www.europa.eu.int/comm/regional_policy/funds/ispa/ispa_en.htm

The Practical Guide to Phare, Ispa and SAPARD Contract Procedures offers the most detailed information on the rules of origin and the rules of nationality.

http://europa.eu.int/comm/europeaid/tender/gestion/pg/pg_phare_en.pdf

3. SAPARD

SAPARD is the EC's Pre-Accession instrument for agricultural and rural development. It aims at preparing candidate countries agricultural sectors' for participation in the CAP (Common Agricultural Policy) and the internal market. This program offers fewer opportunities for US firms directly involved in this sector, but offers indirect business opportunities, such as computer software and hardware necessary for managing the registration of land and farm animals.

SAPARD covers the following candidate countries: Bulgaria, Romania, Czech Republic, Slovakia, Poland, Hungary, Latvia, Estonia, Lithuania, and Slovenia.

The annual budget for the 2000-2006 period is 520 million Euro. Here is an indicative annual allocation for 2000-2006 (in million Euro):

Bulgaria	53.01	Lithuania	30.34
Czech Republic	22.44	Poland	171.60
Estonia	12.34	Romania	153.24
Hungary	38.71	Slovakia	18.60
Latvia	22.22	Slovenia	6.44

Examples of eligible projects

1. Investments in agricultural holdings: support to those which comply with the national minimum requirements regarding the environment, hygiene and animal welfare;
2. Improving the processing and marketing of agricultural and fishery products: eligible expenditure may include construction and acquisition of immovable property (with the exception of land purchase); new machinery and equipment including computer software; general costs, such as architects, engineers, consultant's fees; feasibility studies, acquisition of patents and licenses.
3. Agri-environment: actions supported aim at developing practical experience of agri-environment implementation at both administrative and farm level;
4. Training: support for vocational training;
5. Producer groups: support to encourage the setting-up and to facilitate the administrative operation of producer groups during the first five years following the date of their recognition;
6. Forestry: afforestation of agricultural land if compatible with the environment; the support could include an annual premium per hectare afforested to cover maintenance costs for a period of up to five years.

The grant will amount up to 75% of eligible expenditure.

Generally speaking, each accession country is creating a "Sapard Agency", in many cases dependent upon the local Ministry of Finance, that will be fully responsible for the management of Sapard aid and in particular of: audit trail, treasury management, receipt of the EU fund, disbursement to beneficiaries, computer security and internal audit. The intended aim is to hand over to such local agencies the general management of the aid on a decentralized basis in the near future.

Companies are advised to contact the local U.S. Commercial Service, or the local Sapard Agencies, who bear full responsibility, for the procurement process and contract awards.

The following website has informative country files on all 10 accession countries:
http://europa.eu.int/comm/agriculture/external/enlarge/countries/index_en.htm

For questions on any of these programs, please contact:

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Or send your question to:

Brussels.ec.office.box@mail.doc.gov

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